

PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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| Applicant's or agent's file reference BE10352CLNA | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) | |
| International application No. PCT/FR2003/000577 | International filing date (<i>day/month/year</i>) 21 février 2003 (21.02.2003) | Priority date (<i>day/month/year</i>) 22 février 2002 (22.02.2002) |
| International Patent Classification (IPC) or national classification and IPC A61N 1/36 | | |
| Applicant NEWMEDIC INTERNATIONAL | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

| | |
|--|---|
| Date of submission of the demand 18 septembre 2003 (18.09.2003) | Date of completion of this report 07 May 2004 (07.05.2004) |
| Name and mailing address of the IPEA/EP | Authorized officer |
| Facsimile No. | Telephone No. |

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/000577

I. Basis of the report

1. With regard to the elements of the international application:*

the international application as originally filed
 the description:

pages _____ 1-25 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

the claims:

pages _____ 1-22 _____, as originally filed
 pages _____, as amended (together with any statement under Article 19)
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

the drawings:

pages _____ 1/11-11/11 _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

the sequence listing part of the description:

pages _____, as originally filed
 pages _____, filed with the demand
 pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 the language of publication of the international application (under Rule 48.3(b)).
 the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

contained in the international application in written form.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority in written form.
 furnished subsequently to this Authority in computer readable form.
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, Nos. _____
 the drawings, sheets/fig _____

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application.
 claims Nos. 12-22

because:

the said international application, or the said claims Nos. 12-22 relate to the following subject matter which does not require an international preliminary examination (*specify*):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.
 no international search report has been established for said claims Nos. _____.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the standard.
 the computer readable form has not been furnished or does not comply with the standard.

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III.

The subject matter of claims 12 to 22 relates to a method comprising cochlear stimulation for therapeutic purposes. Therefore, the subject matter of claims 12 to 22 is considered to be a method for treatment of the human body by therapy (PCT Article 34(4)).

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|--------|------|-----|
| Novelty (N) | Claims | 1-11 | YES |
| | Claims | | NO |
| Inventive step (IS) | Claims | | YES |
| | Claims | 1-11 | NO |
| Industrial applicability (IA) | Claims | 1-11 | YES |
| | Claims | | NO |

2. Citations and explanations

Reference is made to the following documents:

D1: US-A-5 758 651 (DALY CHRIS NEWTON ET AL) 2 June
1998 (1998-06-02) cited in the application
D2: US 2001/049466 A1 (BAUMANN JOACHIM W ET AL) 6
December 2001 (2001-12-06)
D3: US-A-5 034 918 (JEONG HO-SUN) 23 July 1991
(1991-07-23)

1. Document D1, which is considered to be the most relevant prior art, discloses an apparatus from which the subject matter of claim 1 differs by virtue of the characterising part of said claim.

It follows that the subject matter of claim 1 is novel (PCT Article 33(2)).

2. Document D1 does not specify the manner in which the neural responses are analysed.

However, it is obvious that it is desirable for any signal monitoring apparatus to be able to analyse the signal as well.

It is also known that signal analysis is always based either on the analysis of certain parameters such as frequency and amplitude, or on morphological signal analysis with automatic curve recognition.

It is also known that such analysis can be carried out by means of a neural network (see document D2, page 5, paragraph 42).

It follows that neither the characterising part of claim 1 nor the additional feature in claim 2 involves an inventive step (PCT Article 33(3)).

3. The features in claims 3 (see, for example, D3), and 4 to 11 are merely some of a plurality of obvious alternatives that a person skilled in the art might select, depending on each particular case, and without an inventive step being involved.